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AND	-	2	JUL 2 9 2009
48-CA.C.F. (*M70)	<del>-</del>		CLERK U S DISTRICT COURT DISTRICT OF ARIZONA
ace of Confinement		ВУ	DISTRICT OF ARIZONA DEP
ailing Address	<u>-</u>		
FLORENCE AZ 85232			
ity, State, Zip Code			
Failure to notify the Court of your change of address may res	ult in dismissal of	this action.)	
IN THE UNITED STA' FOR THE DISTR	11 s - T - 1 s - 1 s - 1 s - 1 s		
LENNETH SCOTT MACHADO			
Full Name of Petitioner)	)		
Petitioner,	<b>j</b>		
된 사용하다 하는 모든 경인된 사람들이 되었다.	)	120	a llad Cooli
	) CASE NO	(Ta ba aver	CV - 425- FRZ/H
CHUCK RYAN ACTING DIRECTOR -ODC.	<b>)</b>	(10 be supp	olled by the Clerk)
Name of the Director of the Department of	) }		
orrections, Jailor or authorized person having	<b>3</b>		
ustody of Petitioner)	) PETI	TION UNI	DER 28 U.S.C. § 2254
역 이 등 전 경험이 있으면 하는데 그리고 그리고 있는데 함께 된다. 그 등 구성을 되고 있었다. 그는데 그리고 말하는데 살아보는데 말했다.			F HABEAS CORPUS
Respondent,			IN STATE CUSTODY
and $\triangle 1.7300$	<b>)</b>	(NON-DEA	TH PENALTY)
he Attorney General of the State of HUZNA,			
Additional Respondent.	<b>)</b>		
	j		
PET	ITION		
(a) Name and leastion of asset that are and the in			<b>-</b>
(a) Name and location of court that entered the ju			
The Court secretary court	COT COINCES	<u> </u>	25,12. 65 701
(b) Criminal docket or case number: <u>CR 2</u>	2820100		
C . TH	+ > . (	<b>*</b>	
Date of judgment of conviction:	1004	July 1R	AL)
To this age, and a second seco	•	n *	7. <b>\</b> □-
In this case, were you convicted on more than one	e count or crime	; Y	es <b>V</b> No □

(punt	4:				LASS TWO F	
COUNT						(MISDEMEANOR CLASS ONE)
Length o	f sentenc	e for each coun	t or crim	e for which	h you were co	onvicted in this case:
Count	<u>1:</u>	SEVEN YEAR	s ( BR	ESUMPTIVE	€)	
=	4: "	THREE AND ONE	HALF	(3.5) (	PLEGUATIVE	)
۶.	5: *	TIME SERVE	<u>D</u>			
(a) What		r plea?	4			
Not g	· · · · · · · · · · · · · · · · · · ·					
Guilty						
Nolo	contende	re (no contest)				
a > 70			1 14 × 1 × 4			
		a guilty plea to	one cou	int or char	ge, and a not	guilty plea to another count or c
give deta	11S:					
<del></del>					<del></del>	
	<u> </u>					
a) If-				the state of the s		
CLIVOL	n went to	trial what kind	of trial	did you ha	eve? (Check o	one) Jury Judge o
C) II yol	u went to	trial, what kind	of trial	did you ha	ave? (Check o	one) Jury Judge o
						one) Jury Judge o
		trial, what kind the trial? Y				one) Jury Judge o
Did you t	estify at	the trial? Y	es 🔀	No⊏		
Did you t Did you f	estify at	the trial? Y	es 🔀	No⊏		one) Jury Judge o
Did you t Did you f	estify at file a dire	the trial? Y	es 🔀	No□		
Did you t Did you f Yes	estify at file a dire No 🗆	the trial? Y	es 🔀	No□		
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Did you to Did you for Yes X and Date (b) Dock (c) Resulted (d) Date (e) Ground	estify at file a dire No Swer the you filed to case to case to fresult:	the trial?  Ct appeal to the following:  Det. 19  number: 2  HELD' - Cond  MAY 10 <sup>th</sup> d: 15 THE	es X Arizona  Arizona  CA-  Diotion  1,200  Thunk	No Court of CR 22 AND S	Appeals from  OU - 036  ENTENCE	the judgment of conviction?
Did you to Did you for Yes A Date  a) Date b) Dock c) Result d) Date e) Ground	iestify at file a dire No   swer the you filed tet or case t:   of result:   of result:	the trial? Y  ct appeal to the  following:  : Oct. 19  e number: 2  ACLD' - Con.  MAY 10 <sup>th</sup> d: The  Sex. Asst.	es XC Arizona  Arizona  CA-  CA-  CA-  CA-  Trunc  Trunc  CA-  Trunc  CA-  CA-  CA-  CA-  CA-  CA-  CA-  CA	No Court of CR 20 CR 20 AND CO	Appeals from  04-036  ENTENCE  DEMIN  NG TESTIM	L July Instruction on Sury: 3 Giving the Stand
Did you to Did you for Yes A Date  (a) Date (b) Dock (c) Result (d) Date (e) Ground (for Yes) (f	estify at file a dire No  swer the you filed et or case t:   of result:   of result:   of saise to the saise	the trial? Y  ct appeal to the  following:  : Oct. 19  e number: 2  HELD' - Con.  HAY 10 <sup>th</sup> i: O THE  Seyc. Asst.  Reasonable (	Arizona  Arizona  Arizona  CA-  CA-  CA-  CA-  CA-  CA-  CA-  CA	No Court of	Appeals from  OH-036  ENTENCE  OIN DENVIN  NO TESTIMA  LING TO CO	the judgment of conviction?
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1	id you appeal to the Arizona Supreme Court? Yes No Lives, answer the following:
10	
(8	n) Date you filed: 2006
<i>(</i> 1	o) Docket or case number: CR-06-0265-PR
(1	D D
((	e) Result: DENIED REUIEW
 	d) Date of result: 2/8/2007
ζ,	e) Grounds raised: Was the Machado Entitled to Defend Against the CHANGE of SEX. A
وان	NO THE STAT. BASIS THAT HE MAND THE PULLBED CICIAN WERE VIAPALLED "Slouse" WHI
	THE PARTIES WERE LEGALLY MARKED.
	BLEF E DECISION ARE ATTACHED AS EXHIBIT & Attach, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.
ስ	Did you file a petition for certiorari in the United States Supreme Court? Yes \( \subseteq  \text{No.} \)
J	f yes, answer the following:
(	a) Date you filed:
 (	b) Docket or case number:
	[일하다] 그는 사람들이 되어 들고 있는 일하다면 되었다면 하는 것이 되었다면 하는데 하는데 되었다.
- 1	c) Result:
	(d) Date of result:
	(e) Grounds raised:
. :	
	Attach, if available, a copy of any brief filed on your behalf and a copy of the decision by the court.
	Other than the direct appeals listed above, have you filed any other petitions, applications or mo

irst Petition.	
Date you filed: October 2007	
2) Name of court: LIMA County Sufflier Court	
Nature of the proceeding (Rule 32, special action or habeas co	orpus): <u>luce 32</u>
1) Docket or case number: <u>CR . 20040585</u>	
5) Result: LELIEF DENIED	
6) Date of result: 5AN. 30TH 2000	
7) Grounds raised: I.A.C (TRIM COUNSER) FOR FAI	cure to lost fuer Ins.
love Mileran i robust (2) TA ( This Counter)	AILING TO MITTSE CONSO.
DIOLATIONS LECATED TO SPONSAL DEFENSE; TRIAL CO LEDWEST FOR WILLITS INSTRUCTION.	SURT ERRED IN DENTING
Copy of Brief and Decision are Attached as Exiting	SITH D (ALSO REPLY IS ATT
attach, if available, a copy of any brief filed on your behalf and a copy of the	
Second Petition.  1) Date you filed:	
2) Name of court:	
3) Nature of the proceeding (Rule 32, special action or habeas c	orpus):
4) Docket or case number:	
(5) Result:	
(6) Date of result:	
(7) Grounds raised:	

(1) Date you filed:			
(2) Name of court:			
(3) Nature of the proceeding (1	Rule 32, special action or l	habeas corpus):	
(4) Docket or case number: _			
(5) Result:			
(6) Date of result:			
(7) Grounds raised:			· · · · · · · · · · · · · · · · · · ·
		ation, or motion to	
d) Did you appeal the action take	en on your petition, applic Court of Appeals:	ation, or motion to	the: ipreme Court:
d) Did you appeal the action take Arizona	en on your petition, applic Court of Appeals:	ation, or motion to <u>Arizona S</u> ı	the: upreme Court: No □
d) Did you appeal the action take Arizona  (1) First petition: Yes	en on your petition, applic Court of Appeals: No    No	ation, or motion to Arizona Su Yes	the: upreme Court: No □
d) Did you appeal the action take  Arizona  (1) First petition: Yes  (2) Second petition: Yes   (3) Third petition Yes	en on your petition, applic Court of Appeals:  No   No   No   No   No   No	ation, or motion to Arizona St  Yes  Yes □  Yes □	the:  ipreme Court:  No   No   No   No   No
d) Did you appeal the action take  Arizona  (1) First petition: Yes  (2) Second petition: Yes	en on your petition, applic Court of Appeals:  No   No   No   No   No   No	ation, or motion to Arizona St  Yes  Yes □  Yes □	the:  ipreme Court:  No   No   No   No   No
d) Did you appeal the action take  Arizona  (1) First petition: Yes  (2) Second petition: Yes   (3) Third petition Yes	en on your petition, applic Court of Appeals:  No   No   No   No   No   No	ation, or motion to Arizona St  Yes  Yes □  Yes □	the:  ipreme Court:  No   No   No   No   No
d) Did you appeal the action take  Arizona  (1) First petition: Yes  (2) Second petition: Yes   (3) Third petition Yes	en on your petition, applic Court of Appeals:  No   No   No   No   No   No	ation, or motion to Arizona St  Yes  Yes □  Yes □	the:  ipreme Court:  No   No   No   No   No
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d) Did you appeal the action take  Arizona  (1) First petition: Yes  (2) Second petition: Yes   (3) Third petition Yes	en on your petition, applic  Court of Appeals:  No   No   rizona Court of Appeals, e	ation, or motion to Arizona Su  Yes   Yes □  Yes □  Explain why you die  that you are bein	the:  ipreme Court:  No   No   Inot:  g held in violati

court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

A. DENIAL	of Fuer Ir	STRUCTION				
A DENNE	of RIGHT Y	D PRESENT	EFENSE /EU	OENTE		
1 DENIAL	of Due Pro	CESS				
<u>C. 0-4-11-C</u>	61 //-					
THE TRUE INSTRUCTION OF DEFINITION OF ADDRESS OF B. JONES N DIRECTED VERDIC DEFENSE COURT DIRECTED TURY FOUND	M COURT ENDOSE  "SPOUSE" OF COME COME  TO OBSECTED  TO COMPEC'S A  THE DEROW  HIM NOT GUM	HED IN DEA E DEFENSE TO DEFENSE TO DEFENSE BEE TO THE COURT CTIONS WERE TON THE F	UVING MR. AS SEXUAL AS HABITATION" N PREVENTED T PROVIDING PREJUDICION HOMINISTERING	TO MR. MAC ALCOHOL DELL TO MR. MAC ALCOHOL DELL COUNT III.	QUEST FOR WING TUPY  THEREOF THESE COUNS  HUMBIUM SEG  HUMBIUM SECAN  ES COUNT ]	A JURY LEGAL THIS EL- RICHA MROING TH SE THE I AND TH
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	VO: DENIAL OF DUE PROCESS' 4.S.C.A. FIFTH AMEND.
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H	SKOOT BE TOND A LEATONISCE SOUD! COLUMN'S BUFDEN OF FOOT"
	1.C. IMPERMISSIBLY EASING THE THORES
<del></del>	ERPONEOUS SUPY INSTRUCTION "FIRMLY-CONJINCED"
5	ECHON Gars Jard Hestpications
(a) Suppo	orting FACTS (Do not argue or cite law. Just state the specific facts that support your claim
~11.4	TRIAL COURT ELLED IN DENVING MR. MACHADO'S REQUEST FOR A JURY TRIAL
THE	THAL COURT EATEN IN VEHILLE TO SEXUAL ASSOULT AND NOT GIVING THE
INSTRUCT	TE LEGAL DEFINITION OF "Space" AND/OR "COHABITATION", THUS
Jusy T	TE LEGAL DEFINITION OF SPORSE ANATOR CONTROL
	. Mf. Machabo of Due Process
	SET FORTH IN GROUND ONE TRIAL COUNSEL MR JONES OBJECTED TO STRUCTION, AND THE TRIAL COURT FAILED TO EXERCISE IT'S DISOPETION TO SAID INSTRUCTION, IN SPITE OF THE COURT'S DIRECTED DERDICT TO HOWIT OF ADMINISTRING ALCOHOL/DRUGS)
<u> </u>	SET TOMET IN GROUPD ONE CALLED TO EXPERICE IT'S DISOFFTION TO
THE IN	THICKION, AND THE THICK COURT FAILT OF METER DELOICE TO HOUT OF
wempe	SAID INSTRUCTION, IN STILL OF ME WOODS
Coupy II	(ADMINISTERING ALCOHOL/DRUGS)
	POSSIBILITY THAT ONE OR MORE REASONABLE JURORS CONLO HAVE
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INTERTA	ETED THE INSTRUCTION LEGICIENTS THE PROSECUTION TO THE CHIRE IR. STATUTORARILY REDURED PROOF OF "WITHOUT -
FLEKENT	". "IMMEDIATE OF THREATENED USE OF FORCE".
THE	STATE WAS RELIEVED OF IT'S DURDEN OF PROOF AND MR. MACHADO WITE
Deares	THE STATUTORY OFTION OF CONVICTION ON LESSER OFFENSE ( SPONSON
DEFENAL	LESSENS CONCICTION TO CLASS SIX FELONY
ESPEC	CIARLY WHERE THE BROSECUTION WAS ALLOWED TO AROUE TO THE BURY
THAT TH	EY ONLY HAD TO BE "FIRMLY CONVINCED". (SE R.T. 9/2/04, AT 51)
(b) Did yo	ou present the issue raised in Ground Two to the Arizona Court of Appeals? Yes 🔀 N
(c) If yes,	, did you present the issue in a:
	Direct appeal
	First petition \(\sum_{\text{tilde}}\)
	Second petition
	Second petition   Third petition
(d) If you	Second petition
(d) If you	Second petition   Third petition
(d) If you	Second petition   Third petition
(d) If you	Second petition   Third petition

	rting FACTS (Do n		to law Tuets	rate the speci	fic facts that supp	ort your clain
(a) Suppo	rting FACIS (Do n	ot argue of co	ite law. Just s			·
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.e. <u>.                                  </u>					tu tu e	
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. —						
	ou present the issue	raised in Gr	ound Three to	the Arizona	Court of Appeals	? Yes□ N
(b) Did y	ou present the issue	Taised in Or	ound lines is			
(c) If yes	, did you present th	e issue in a:				
	Direct appeal					
	First petition					
	Second petition Third petition					
	-				Count of Annagle	evolain why
(d) If yo	ou did not present th	e issue in Gr	ound Three to	the Arizona	Court of Appears	, captain willy
<u> </u>						
		<u> </u>				

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	•
(a) Supporting FACTS (Do not argue or cite law. Just stat	te the specific facts that support your cl
(b) Did you present the issue raised in Ground Four to the	Arizona Court of Appeals? Yes
(b) Did you present the issue raised in Ground Four to the	, refizona Court of 1-pp
(c) If yes, did you present the issue in a:	
Direct appeal □	
First petition	
Second petition   Third petition	
(d) If you did not present the issue in Ground Four to the	Arizona Court of Appeals, explain wh

Please answer these additional questions about this petition:
13. Have you previously filed any type of petition, application or motion in a federal court regarding the conviction that you challenge in this petition? Yes \(\Boxed{\sigma}\) No
If yes, give the date of filing, the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available:
motion med. Attach a copy of any court opinion of order, if a care-
14. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, as to the judgment you are challenging? Yes \(\sigma\) No
If yes, give the date of filing, the name and location of the court, the docket or case number, the type of proceeding, and the issues raised:
15. Do you have any future sentence to serve after you complete the sentence imposed by the judgment you are challenging? Yes \( \subseteq  \text{No} \( \subseteq \)
If yes, answer the following:
(a) Name and location of the court that imposed the sentence to be served in the future:
(b) Date that the other sentence was imposed:
(c) Length of the other sentence:
(d) Have you filed, or do you plan to file, any petition challenging the judgment or sentence to be served in the future? Yes □ No □

*Section 2244(d) provides in part that:  (1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a pers in custody pursuant to the judgment of a State court. The limitation period shall run from the latest (A) the date on which the judgment became final by the conclusion of direct review or t expiration of the time for seeking such review;  (B) the date on which the impediment to filing an application created by State action, violation of the Constitution or laws of the United States is removed, if the applicant w prevented from filing by such State action;  (C) the date on which the constitutional right asserted was initially recognized by the Suprer Court, if the right has been newly recognized by the Supreme Court and made retroactive applicable to cases on collateral review; or  (D) the date on which the factual predicate of the claim or claims presented could have be discovered through the exercise of due diligence.  (2) The time during which a properly filed application for State post-conviction or other collater review with respect to the pertinent judgment or claim is pending shall not be counted toward a period of limitation under this subsection.					
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17. Petitioner asks that the Court grant the following relief: OUGLTURE CONVICTION	(2) Treview period	A 1-year period of limitation stody pursuant to the judg (A) the date on which expiration of the time for (B) the date on which violation of the Constitute prevented from filing by (C) the date on which the Court, if the right has be applicable to cases on (D) the date on which the discovered through the lime during which a pay with respect to the period of limitation under this car asks that the Court grants.	ion shall apply to an iment of a State cour the judgment becare for seeking such reviews that it in the impediment to it it it in or laws of the y such State action; he constitutional right been newly recognized the factual predicate exercise of due diliproperly filed application to judgment or subsection.	t. The limitation period me final by the conclus lew; of filing an application are United States is remarked asserted was initially zed by the Supreme Cost of the claim or claims gence.	shall run from the latest of ion of direct review or to created by State action, oved, if the applicant we recognized by the Suprement and made retroactive presented could have be noticed to counted toward and
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AND SENTENCES	or any other i	relief to which Petitioner	may be entitled. (N	Ioney damages are not	available in habeas corp
or any other relief to which Petitioner may be entitled. (Money damages are not available in habeas corp cases.)  I declare under penalty of perjury that the foregoing is true and correct and that this Petition for Writ	or any other recases.)  I declare to the Habeas Corporation	under penalty of perjury as was placed in the priso	that the foregoing is	s true and correct and the	nat this Petition for Writ (month, day, yea
or any other relief to which Petitioner may be entitled. (Money damages are not available in habeas corp cases.)  I declare under penalty of perjury that the foregoing is true and correct and that this Petition for Writ Habeas Corpus was placed in the prison mailing system on **SEE BELOW* (month, day, year facility of the prison mailing system on **SEE BELOW*)	or any other recases.)  I declare to the Habeas Corporation	under penalty of perjury as was placed in the priso	that the foregoing is	true and correct and the notice BELOW  Mailed by family of Documents.	nat this Petition for Writ (month, day, year